

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	File No. EB-07-KC-005
)	
Simmons-Austin, LS, LLC)	FRN 0010736262
Licensee of Station KSLG(AM))	
St. Louis, Missouri)	Ref. Facility ID #74579
)	

ORDER

Adopted: June 18, 2007**Released: June 20, 2007**

By the Chief, Enforcement Bureau:

1. In this Order, we adopt the attached Consent Decree entered into between the Enforcement Bureau (“Bureau”) and Simmons-Austin, LS, LLC (“Simmons”), licensee of station KSLG(AM), St. Louis, Missouri. The Consent Decree terminates an investigation by the Bureau into whether Simmons violated Section 301 of the Communications Act of 1934, as amended (“Act”),¹ and Sections 73.1350 and 73.1745 of the Commission’s Rules (“Rules”).²

2. The Bureau and Simmons have negotiated the terms of a Consent Decree that would resolve this matter and terminate the investigation. A copy of the Consent Decree is attached hereto and incorporated by reference.

3. After reviewing the terms of the Consent Decree and evaluating the facts before us, we find that the public interest would be served by approving the Consent Decree and terminating the investigation. In the absence of material new evidence relating to this matter, we conclude that our investigation raises no substantial or material questions of fact as to whether Simmons possesses the basic qualifications, including character qualifications, to be or remain a Commission licensee.

4. Accordingly, **IT IS ORDERED** that, pursuant to Sections 4(i) and 503(b) of the Communications Act of 1934, as amended,³ and the authority delegated in Sections 0.111 and 0.311 of the Commission’s Rules,⁴ the Consent Decree attached to this Order **IS ADOPTED**.

5. **IT IS FURTHER ORDERED** that the Bureau’s investigation in this proceeding **IS TERMINATED**.

6. **IT IS FURTHER ORDERED** that Simmons-Austin, LS, LLC shall make its voluntary contribution to the United States Treasury, as specified in the Consent Decree, by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, P.O. Box 358340, Pittsburgh, PA 15251-8340. Payment by overnight mail may be sent to Mellon Bank /LB 358340, 500 Ross Street, Room 1540670, Pittsburgh, PA 15251. Payment by wire transfer

¹ 47 U.S.C. § 301.

² 47 C.F.R. §§ 73.1350 and 73.1745.

³ 47 U.S.C. §§ 4(i) and 503(b).

⁴ 47 C.F.R. §§ 0.111 and 0.311.

may be made to ABA Number 043000261, receiving bank Mellon Bank, and account number 911-6106. The payment, regardless of how sent, must include the FRN No. referenced above.

7. **IT IS FURTHER ORDERED** that a copy of this Order and Consent Decree shall be sent by first class mail and certified mail, return receipt requested, to counsel for Simmons, John R. Feore, Jr., Esquire, Dow Lohnes PLLC, 1200 New Hampshire Ave., Suite 800, Washington, D.C. 20036 and to Simmons at its address of record.

FEDERAL COMMUNICATIONS COMMISSION

Kris Anne Monteith
Chief, Enforcement Bureau

CONSENT DECREE

The Enforcement Bureau of the Federal Communications Commission (“Bureau”) and Simmons-Austin, LS, LLC. (“Simmons”) hereby enter into this Consent Decree regarding possible violations of Section 301 of the Communications Act of 1934, as amended (“Act”),⁵ and Sections 73.1350 and 73.1745 of the Commission’s Rules (“Rules”),⁶ concerning Simmons’ operation of Station KSLG(AM).

Definitions

1. For the purposes of this Consent Decree, the following definitions shall apply:
 - (a) “Adopting Order” means the order of the Enforcement Bureau adopting this Consent Decree;
 - (b) “Act” means the Communications Act of 1934, as amended, Title 47 of the United States Code;
 - (c) “Bureau” means the Enforcement Bureau of the Federal Communications Commission;
 - (d) “Commission” means the Federal Communications Commission;
 - (e) “Final Order” means the Adopting Order that is no longer subject to administrative or judicial reconsideration, review, appeal, or stay;
 - (f) “Investigation” means the investigation conducted by the Bureau concerning (i) whether Simmons complied with the provisions of the Act and the Rules requiring the Station to operate in accordance with the terms of its license for the period beginning October 1, 2006 and ending on January 31, 2007, and (ii) whether Simmons issued a corporate directive to the Station to operate outside of the terms of its license.
 - (g) “Rules” means the Commission’s regulations set forth in Title 47 of the Code of Federal Regulations;
 - (h) “Simmons” means Simmons-Austin, LS, LLC and any other commonly owned entity, including Simmons Media Group, LLC; and
 - (i) “Station” means KSLG(AM), St. Louis, Missouri.

Background

2. On January 30, 2007, the Bureau sent a letter (the “Letter”) to Simmons. In the Letter, the Bureau indicated that it had commenced an investigation to determine whether Simmons had operated the Station’s daytime transmitter during nighttime hours between October 1, 2006, and January 31, 2007.

⁵ 47 U.S.C. § 301.

⁶ 47 C.F.R. §§ 73.1350, and 73.745.

3. On February 20, 2007, Simmons submitted a response to the Letter (the "Response"). In the Response, Simmons acknowledged that at certain times between October 1, 2006 and January 31, 2007, the Station operated its daytime transmitter outside the daytime hours stated in its license. The Response also detailed a series of actions that Simmons had undertaken and thereafter would undertake to better ensure that the Station and all other commonly owned stations complied with the Commission's Rules.

4. Simmons and the Bureau acknowledge that any proceeding that might result from the Investigation will require the significant expenditure of public and private resources. To conserve such resources and to promote compliance by Simmons with the Act and the Rules, Simmons and the Bureau hereby enter into this Consent Decree in consideration of the mutual commitments made herein.

Terms of Settlement

5. Simmons agrees that the Commission has jurisdiction over the matters referenced in this Consent Decree and that the Bureau has the authority to enter into and adopt this Consent Decree.

6. Simmons and the Bureau agree that this Consent Decree does not constitute either an adjudication on the merits or a factual or legal finding or determination, regarding the matters discussed in Paragraphs Two and Three above. Simmons and the Bureau agree that this Consent Decree is for settlement purposes only.

7. Simmons and the Bureau agree that this Consent Decree shall constitute a final settlement between them as to the matters discussed in Paragraphs Two and Three above. In consideration for termination of the Investigation and in accordance with the terms of this Consent Decree, Simmons agrees to the terms set forth herein.

8. In express reliance on the covenants and representations in this Consent Decree, the Bureau shall terminate the Investigation. From and after the release of the Adopting Order (the "Effective Date"), in the absence of material new evidence, the Bureau shall not initiate or recommend to the Commission any new proceeding, informal or formal, regarding the matters that were the subject of the Investigation. Nothing in this Consent Decree will prevent the Bureau from instituting or recommending to the Commission any new investigation or enforcement proceeding against Simmons in the event of any alleged future misconduct involving violation of this Consent Decree, or violation of the Act or the Rules.

9. Simmons admits, solely for the purpose of this Consent Decree and for FCC civil enforcement purposes, and in express reliance on the provisions of Paragraph Eight hereof, that Simmons operated the Station in violation of Sections 73.1350 and 73.1745 of the Rules as described in its Response. Notwithstanding any other provision of this Consent Decree, it is expressly agreed and understood that if this Consent Decree, or Paragraph Eight hereof, or both, are breached by the Bureau, or are invalidated or modified to Simmons' prejudice by the Commission or by any court, then and in that event the provisions of the immediately-preceding sentence shall be of no force or effect whatever, and Simmons shall not, by virtue of that sentence or any other provision of this Consent Decree, be deemed to have made any admission concerning the Investigation.

10. Simmons has implemented a comprehensive internal program to ensure its future compliance with the Act, the Rules, and the Commission's policies, as set forth below:

Automation Equipment. Simmons identified, ordered, received, and installed new automation equipment for the Station. This new equipment turns the daytime and nighttime transmitters on and off at the times specified in the Station's license automatically, i.e., without the need for human involvement or the risk of human error. Simmons has identified which other radio

stations require repairs to existing automation equipment and which require installation of entirely new automation equipment. As of March 31, 2007, all of Simmons' stations have fully functioning automation equipment installed and operating.

Internal Controls and Monitoring Equipment. Simmons has adopted internal controls to detect instances in which a radio station might deviate from its licensed parameters. As of March 31, 2007, Simmons has installed computerized monitoring systems at all of its stations. These systems will report any operating variations or discrepancies directly to Simmons' Corporate Director of Engineering. Promptly following a report of any such variations, the Corporate Director of Engineering will work with the appropriate chief engineer or operator to identify and rectify the problem.

Weekly Reporting System. Simmons has implemented a weekly reporting system. Every chief engineer or operator will now prepare a weekly, written report identifying any variances or discrepancies from his or her station's or stations' licensed parameters, as well as any discrepancies regarding EAS announcements and tower painting and lighting requirements. These reports will be delivered to the local general managers, the Corporate Director of Engineering, and the President of Simmons Media Group, LLC.

Internal Inspections. Simmons has augmented its internal inspection procedures. Simmons already inspects its radio stations periodically to ensure compliance with the Commission's public inspection file and EAS rules. Simmons has now retained an independent engineering firm to perform random inspections of technical facilities at every Simmons station, at least once each year. The firm will prepare a written report (the "Audit Report") on its findings and deliver it promptly to the station's general manager, the station's chief engineer, the Corporate Director of Engineering, and the President of Simmons Media Group, LLC. The first such inspections began in March 2007. Simmons shall retain all Audit Reports for at least two years from the Effective Date. The Audit Reports will be available to the Bureau, upon written request in connection with any proceeding against Simmons concerning an alleged violation of this Consent Decree.

11. Simmons shall make a voluntary contribution to the United States Treasury in the amount of twenty-five thousand dollars (\$25,000) within 10 days after the Adopting Order becomes a Final Order. Such payment will be made without further protest or recourse, by check or similar instrument, payable to the order of the Federal Communications Commission. Such payment will include the FRN No. referenced in the Adopting Order. Such payment by check or money order may be mailed to Federal Communications Commission, P.O. Box 358340, Pittsburgh, PA 15251-8340. Such payment by overnight mail may be sent to Mellon Bank /LB 358340, 500 Ross Street, Room 1540670, Pittsburgh, PA 15251. Such payment by wire transfer may be made to ABA Number 043000261, receiving bank Mellon Bank, and account number 9116229.

12. Simmons waives any and all rights it may have to seek administrative or judicial reconsideration, review, appeal or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Adopting Order, provided the Order adopts the Consent Decree without modification.

13. The effectiveness of this Consent Decree is expressly contingent upon issuance of the Adopting Order, provided the Adopting Order adopts the Consent Decree without modification. Simmons will continue the weekly reporting system and internal inspection, described in paragraph 10, for at least 2 years from the Effective Date.

14. In the event any court of competent jurisdiction renders this Consent Decree invalid, the Consent Decree shall become null and void and may not be used in any manner in any legal proceeding.

15. If the Commission, or the United States on behalf of the Commission, brings a judicial action to enforce the terms of the Adopting Order, neither Simmons nor the Commission will contest the validity of the Consent Decree or Adopting Order, and Simmons will waive any statutory right to a trial *de novo*.

16. Simmons agrees to waive any claims it may otherwise have under the Equal Access to Justice Act, 5 U.S.C. § 504 and 47 C.F.R. §§ 1.1501 *et seq.*

17. Any violation of the Consent Decree, including but not limited to a failure to make a payment required by Paragraph 11 hereof, or the Adopting Order will constitute a separate violation of a Commission order, entitling the Commission to exercise any rights and remedies attendant to the enforcement of a Commission order.

18. Simmons and the Bureau agree to be bound by the terms and conditions stated herein.

19. This Consent Decree may be signed in counterparts.

ENFORCEMENT BUREAU

FEDERAL COMMUNICATIONS COMMISSION

By: _____
Kris Anne Monteith
Chief

_____ Date

SIMMONS-AUSTIN, LS, LLC

By: _____
G. Craig Hanson
Manager

_____ Date